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# Who's behind those annoying political ads?

By Newton Minow and Micheal Copps

After a summer dominated by Donald Trump, the only thing we know for certain about the 2016 election is that tons of money, including hundreds of millions of dollars from anonymous donors, will be poured into contests for president, Congress, governorships and down-ballot offices. Most of it will be used to pay for political advertising.

The fundraising totals already are eye-popping. Major party candidates and political action committees (PACs) have raised more than \$370 million. Leading the money chase, former Florida Governor Jeb Bush and his supporting PACs reported donations of more than \$100 million at the end of June, with the first real voting still a half-year away. Former Secretary of State Hillary Clinton and her supporting PACs reported in excess of \$60 million. But that's just the beginning.

Thanks to the Supreme Court's *Citizens United* decision, shadowy "independent" groups with nebulous names like "Americans for Patriotism" can raise and spend limitlessly to influence elections. Shouldn't we know if "Americans for Red White and Blue Flags" is actually a front for Big Oil or Big Labor, or just a Big Billionaire with a left or right agenda? Instead, anonymity reigns and voters suffer through long months of untraceable smears and distortions. Worse, this unaccountable money not only buys ads now, but will influence winning candidates after the elections are over. It's insidious and destructive of democracy.

In this age of unprecedented dark money, reform might seem hopeless. Thankfully, it isn't. True, Capitol Hill hasn't accomplished much in recent years, but the Federal Communications Commission (FCC) can require effective "sponsorship identification" (SID) rules thanks to a little-known section of the Communications Act (Section 317). Imagine that: instead of being given the name of a nebulous political action committee at the end of each political or controversial issue commercial, voters might hear an on-air in the ad a list of the top four or five individual donors.

The FCC has had SID authority for more than 80 years, but has applied these requirements only to commercial advertising, not political—even though the statute clearly covers both and in spite of FCC rules clearly stating that voters are entitled to know who is trying to influence their votes. The agency should update these rules to keep pace with the ever-changing world of big money campaigning. The agency can assert its statutory authority and sort out the dark money groups, which are frequently nested within one another like Russian dolls.

Members of Congress have introduced legislation in both houses of Congress to ensure the FCC takes action. We welcome that Congressional leadership, but the FCC does not have to wait. It already has the legal authority to give voters the transparency they deserve in time for the 2016 general election.

Wrong as most of the *Citizens United* decision was, the Supreme Court emphasized that donor disclosure would be an entirely acceptable antidote to the plague of money it loosed upon the campaign system. Full disclosure would clearly pass constitutional muster.

The FCC, under Chairman Tom Wheeler, has had a great year. Unfortunately, it has not yet made this necessary reform a priority. Sure, it will be opposed by the donor class and the vested interests, but we can tell you this: once you get outside the Beltway to talk with the American people, this is a non-partisan proposal. Republican voters, Democratic voters and independent voters want and deserve to know who is trying to sway their votes. The FCC exists to enforce the provisions of the Communications Act – all of them. It is time to act.

The FCC can update its rules and put them into effect in plenty of time for the 2016 campaigns. But it needs to get on with this job right away. As Justice Brandeis wrote: "sunlight is the best disinfectant."

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